



## STATE BOARD OF LAND COMMISSIONERS

Dirk Kempthorne, Governor and President of the Board

Pete T. Cenarrusa, Secretary of State

Alan G. Lance, Attorney General

J. D. Williams, State Controller

Marilyn Howard, Superintendent of Public Instruction

Winston A Wiggins, Secretary to the Board

### FINAL MINUTES

Regular Land Board Meeting

February 13, 2001

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, February 13, 2001 in Boise, Idaho. The Honorable Dirk Kempthorne presided. The following members were present:

Honorable Secretary of State Pete T. Cenarrusa

Honorable Attorney General Alan G. Lance

Honorable State Controller J. D. Williams

Honorable Superintendent of Public Instruction Marilyn Howard

Secretary to the Board Winston A Wiggins

#### • CONSENT AGENDA

**Acting Director Wiggins provided background information on the Consent Agenda items.**

**A motion was made by Attorney General Lance to approve the Consent Agenda in its entirety. Superintendent Howard seconded the motion. The motion carried on a vote of 5-0.**

#### 1. Official Transactions – approved

- A. Interest Rate Reports – December 2000 – January 2001
- B. Bureau of Minerals Official Transactions – November – December 2000 – January 2001
- C. Timber Sale Official Transactions – November 20, 2000 through January 22, 2001
- D. Bureau of Real Estate, Land Sale Section, Official Transactions – November – December 2000
- E. Bureau of Real Estate, Easement Section, Official Transactions – November – December 2000
- F. Bureau of Range Management and Surface Leasing Official Transactions – December 2000 – January 2001

#### 2. Timber Sales – Staffed by Bob Helmer, Acting Chief, Bureau of Forest Management – approved

- |                            |           |           |
|----------------------------|-----------|-----------|
| A. Mid Pulp                | CR-1-0309 | 1,800 MBF |
| B. Saddle Sawlog           | CR-3-0421 | 9,210 MBF |
| C. Lower Cat Spur          | CR-3-0462 | 6,575 MBF |
| D. Lotus Point Bugs        | CR-3-0470 | 2,990 MBF |
| E. North Dick's Face       | CR-4-0706 | 2,415 MBF |
| F. Divide Ridge Commercial | CR-4-0720 | 2,265 MBF |

#### 3. Application for Qualified Bidders List, Timber Sales – Staffed by Bob Helmer, Acting Chief, Bureau of Forest Management – approved

- A. Jim Schreiber, Schreiber's Leisure Logging, 755 Government Way, Coeur d'Alene, ID 83814
- B. Tom Woody, Woody Contracting, Inc., 63210 McKenzie Lane, Summerville, OR 97876

**4. Addition of Names to Cottage Site Lessee Exchange List for Payette Lake – Staffed by Perry Whittaker, Chief, Bureau of Real Estate – approved**

*DEPARTMENT RECOMMENDATION:* Department staff request Land Board approval to add names to the respective Payette Lakefront Cottage Site Exchange Lists.

*BOARD ACTION:* Approved.

**5. Supplemental Agreement Request for 2001 Installment on Land Sale Certificate No. 25277 – Staffed by Perry Whittaker, Chief, Bureau of Real Estate – approved**

*DEPARTMENT RECOMMENDATION:* The department recommends approval of the supplemental.

*BOARD ACTION:* Approved.

**6. Big Cinder Butte Grazing Lease Auction Results – Staffed by Tracy Behrens, Range Management Specialist – approved**

*DEPARTMENT RECOMMENDATION:* The department recommended that the board accept the high bid of \$6,500 submitted by G. David and Theressa Dalling and that the Dallings be issued a new ten-year lease. The lease will include a management agreement based upon the management proposal submitted by the Dallings and agreed to by the department.

*BOARD ACTION:* Approved.

**7. Request to Reduce Minimum Stumpage Rates for State Timber Sales– Presented by Ron Litz, Acting Assistant Director, Forestry and Fire – approved**

*DEPARTMENT RECOMMENDATION:*

- 1) Maintain the current delivered log price appraisal system and continue to set the minimum bid price at the higher of the minimum price or delivered log appraisal on a species basis. The exceptions noted on the State Board of Land Commissioners memo dated April 11, 1995 will still apply.
- 2) Establish minimum prices at 50% of the average selling price by species for the previous four calendar quarters. This represents a reduction from the current 60% figure. The effect of this change on current minimum prices is shown on Attachment 1.
- 3) The option to re-appraise sales approved at the February 13, 2001 Land Board meeting using the above new policy without further action of the Board.

*BOARD ACTION:* Approved.

**8. Grazing Lease Management Proposals – Presented by Jay Biladeau, Assistant Director, Lands, Range, Minerals – approved**

*DEPARTMENT RECOMMENDATION:* That the State Board of Land Commissioners adopt the following policy related to grazing leases:

- All applicants for grazing leases must submit a grazing management proposal no later than thirty (30) days after the deadline for applying for the grazing lease.

*BOARD ACTION:* Approved.

**9. Idaho Department of Parks and Recreation/Idaho Department of Lands Property Exchange – Request for Final Approval** – Presented by Jay Biladeau, Assistant Director, Lands, Range, Minerals – **approved**

*DEPARTMENT RECOMMENDATION:* Direct the department to complete the exchange involving the Alscott property and the Lakeview Village and the Riggins endowment properties as outlined based on an exchange value of \$3,243,363.

*BOARD ACTION:* Approved.

**10. Minutes – approved**

- A. Special Land Board Meeting – December 5, 2000
- B. Regular Land Board Meeting – December 12, 2000
- C. Special Land Board Meeting – December 21, 2000

• **REGULAR AGENDA**

**11. Director's Report** – Presented by Winston A. Wiggins, Acting Director, Department of Lands

Summary of fiscal year-to-date 2001 Earnings Reserve Revenue

Available Earnings Reserve Totals:

Public Schools.....	\$40,523,070
Pooled.....	\$34,905,627
<b>Total.....</b>	<b>\$75,428,696</b>
Transfer Out to IDL Operations .....	\$ 6,500,000
<b>Net Revenue from IDL to Earnings Reserve Fund.....</b>	<b>\$68,928,696</b>

The Director's Report is provided monthly for the board's information. No action was taken on this agenda item.

**12. Endowment Fund Investment Board Manager's Report** – Presented by Charles G. Saums, Manager of Investments

January 2001

Total Market Value of Endowment Funds .....	869,861,909.00
Total Market Value of Permanent Corpus .....	805,123,543.00
Total Market Value of Earnings Reserve.....	64,738,366.00

The EFIB Manager's Report is provided monthly for the board's information. No action was taken on this agenda item.

*DISCUSSION:* Governor Kempthorne commented that a special Land Board meeting was held in December due to a concern that the Fund would not be able to make February's payment. He asked what has happened since then to the Fund. Mr. Saums responded that there has been a positive movement in the market. The Earnings Reserve Fund is being looked at in a slightly different way and legislative steps are being taken to assure that the Fund will move its accounting method closer to the GAAP accounting method and away from the cash accounting method. This legislative step will assure any payments back to the corpus through the use of the Fund.

Governor Kempthorne commented that in December the Fund experienced what was then described as a 30-year worst case scenario. Mr. Saums concurred and stated that fortunately the scenario did

not continue in January and improvements were made. The Fund is now in good shape as far as being able to pay the beneficiaries.

### 13. Audience with the Board – Harry Rinker

*DEPARTMENT RECOMMENDATION:* Direct the department to analyze the alternatives available to the board for disposing or managing this property by the end of the calendar year.

**AUDIENCE WITH THE BOARD:** Mr. Harry Rinker.

Mr. Rinker stated the following:

1. The state parcel is listed as having 106 acres.
2. After a survey, the useable acreage was determined to be 71 acres.
3. An MAI appraisal of the property came out at \$1.8 million.
4. Present state income from the property is only \$2,300 per year.
5. Mr. Rinker proposes to exchange property that has a \$123,000 per year income.

Mr. Rinker said that this is a preliminary request so that the board can let him know how he should proceed. This property is of interest to him because he owns the adjoining 135 acres.

*DISCUSSION:* Governor Kempthorne asked Acting Director Wiggins for the department's perspective. Acting Director Wiggins commented that this is a valuable piece of property that lies in a very desirable location. There are a number of alternative uses for the land. It is, in fact, under performing as far as return versus land value. The property value includes water and mineral rights. Due to escalating property values in that area of the state, the department feels it would be wise to consider what the appropriate disposition of the land ought to be. That disposition could include exchange, sale or development.

The department's recommendation to the board is that Mr. Rinker's proposal be included with other alternative approaches for the use of the land and that the department come back to the board with a recommendation by the end of this calendar year. That recommendation will include a careful analysis of the alternatives and a recommendation for the board as to the disposition of the land.

Governor Kempthorne stated two things caught his eye as he read the report. One was the Idaho Department of Transportation's consideration of leasing the property for gravel extraction and that the mineral value may be up to \$2.1 million. Also water rights have an 1886 priority, which is quite valuable. Acting Director Wiggins stated those values would be included. Some of those uses might preclude other uses and that would be part of the analysis that the department would provide to the board.

Secretary of State Cenarrusa commented that the property is more valuable than to be used for gravel extraction. Acting Director Wiggins agreed. As he understands it, the Idaho Department of Transportation has withdrawn their proposal. But there has been discussion that some gravel extraction could be completed in a way that compliments the use of the land although that option would require considerable analysis.

Mr. Rinker added that the state has a parcel at the east end of Ohio Gulch Road that is an isolated parcel. There are no houses around it for some distance. Mr. Rinker feels that parcel is an ideal and much needed gravel source. To date it appears local county commissioners have denied the right to extract gravel from that source and a good many people feel they do not have that authority. If gravel is needed in the county, Mr. Rinker stated he hopes the state will prevail and that gravel will be extracted from the end of Ohio Gulch.

Mr. Rinker went on to say that he hopes the department and the board would be able to put together a decision on disposing of the parcel in less time than a year. All of the pertinent information is on

hand. Governor Kempthorne asked Acting Director Wiggins where the department could be in reviewing the alternatives in six months. Acting Director Wiggins stated the department would have to examine workloads and adjust priorities. If the board wants the information sooner then the department will comply.

Governor Kempthorne asked if setting six months for a status report to the board would be possible. Acting Director Wiggins stated that six months for a status report would be fine and if the work was completed prior to that time it would be brought to the board in its completed form.

Superintendent Howard stated she feels this property has great value now and also a great potential future value. She suggested that the board should take the amount of time necessary to examine the options fully before making any decisions.

Attorney General Lance stated he supports the continued monitoring of the situation. He stated he would vote against any exchange of property. However, he would not be opposed to auctioning the property.

Controller Williams stated he would be willing to look at about any offer. He added that the state does have Ohio Gulch to offer for sale or exchange. He asked Mr. Rinker if he would be interested in Ohio Gulch. Mr. Rinker stated he would give that some thought.

**BOARD ACTION:** Governor Kempthorne asked the department to analyze the alternatives and to provide a status report to the board within six months.

#### **14. Federal Lands Task Force Working Group Update** – *Presented by Bill Myers, Chairman, Federal Lands Task Force Working Group*

##### **FEDERAL LANDS TASK FORCE WORKING GROUP MOTION:**

1. That the Idaho State Land Board consider the *Breaking the Gridlock: Federal Land Pilot Projects in Idaho* report of the Working Group at its February 13, 2001 meeting.
2. That the Land Board should approve the report.
3. That the informal public comment period should be extended indefinitely.
4. That the Working Group will provide substantive public comments to the Land Board at its meeting on February 13, 2001, and
5. That the Land Board should forward the report and the substantive comments to the Idaho Congressional Delegation for immediate consideration.

The above motion was seconded and unanimously passed by the members of the Federal Lands Task Force Working Group.

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#### **AUDIENCES WITH THE BOARD**

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**AUDIENCE WITH THE BOARD:** Senator Judi Danielson.

**Senator Danielson.** In her comments to the board, Senator Danielson stated that she was also voicing the views of her co-chair, Representative Chuck Cuddy. Senator Danielson and Representative Cuddy agree with and support the suggested pilot projects and commend the hard work and effort of the Working Group.

Senator Danielson commented that the controversy surrounding the proposals also creates the credibility of the projects. She feels Idaho is on a new cusp of management for the Forest Service and it has taken five years to get to this point. Five years ago no one knew exactly what the end product would be. Idaho appears to be the only state in the nation ready to take up the challenge of the new Administration in forestland management.

**DISCUSSION:** Governor Kempthorne stated that he believes the concept is sound. He feels there is receptivity in the new Administration. Attorney General Lance thanked all involved for their work. Their effort represents a suggested framework under which federally owned lands can be better managed. Attorney General Lance believes that there will be a lot of negotiation and public input. There will also be a lot of criticism. However, to a large extent, due to the work of the Task Force, Idaho is light years ahead of everybody else in terms of roadless issues, grizzly bear issues and Forest Service management-type issues.

**AUDIENCE WITH THE BOARD:** Senator Laird Noh

**Senator Noh.** While he believe that his views and concerns represent some of the views and concerns of his constituents, Senator Noh stated he has a particular conflict of interest because his family holds long-term grazing permits in the Twin Falls/Cassia County areas. His concerns are both as a legislator and as a long-term livestock producer.

Senator Noh stated that most of the language in the proposal implies that these specific proposals, the five pilot projects, would move with specificity to Washington to work with Congress and the Administration in developing legislation. Although Senator Noh does not see any problem with the first four pilot project concepts going forward, he does have particular concerns with the fifth proposed project, the *Twin Falls/Cassia Resource Enhancement Trust*.

One concern is that the fifth proposal includes Bureau of Land Management land, which is specifically beyond the legislative intent of the enabling legislation passed in 1996. The study refers particularly to the legislative mandate as serving as the basis for this action. It is understood that the Land Board has the authority to enter into a Memorandum of Agreement with any government agency but the legislative language is specific to the United States Forest Service, the Secretary of Agriculture, and is not specific to the Department of Interior, or BLM land.

A very extensive hearing served as the basis for the casting of the original legislation. That hearing laid the groundwork for understanding the problems that led to the gridlock on the management of public land. But all of that testimony focused on national forestland and associated problems.

Senator Noh feels there has been an inadequate distribution of the report and an inadequate public comment period, at least on the fifth proposal. The final report was not available until January 10, 2001. The comment period ended at the end of January 2001. Senator Noh feels that the report was not widely distributed. He commented that the report is very difficult to read and to understand.

Senator Noh stated although he feels that the concepts are good, more work needs to be done. He offered two suggestions. First, Senator Noh suggested that the fifth pilot project be postponed with further review being given by people intimately knowledgeable about grazing and other aspects of rules, regulations, laws and economics. He feels that all of these topics are very much at risk in this project. Senator Noh also suggested extending the public participation period of time. Second, Senator Noh suggested that the concept be approved but not the specifics of the fifth proposal.

Senator Noh emphasized that the concept of stronger local involvement is very important. Although he does not want to be in the position of recommending in any way that the proposal and the projects should not move ahead to Washington, he does have concerns with the fifth proposal. He feels this project is different from the others in that it requires a higher degree of scrutiny and evaluation. Unlike the others, the fifth project involves a large element of grazing economics in the Twin Falls/Cassia County area.

**DISCUSSION:** Superintendent Howard commented that through all of the pilot projects there is a strong interest in balance and in trying to make sure that the land is accessible by all people with an emphasis on ecological conditions. She asked Senator Noh if his particular concerns about BLM inclusion go beyond just another agency or whether he had specific concerns about that agency.

Senator Noh stated there is a difference. The values of the investments in the permits are related to many economic factors. One of those factors is the ease with which those permits can be, in essence, sold or transferred to another party or to other members of the family. The Bureau of Land Management is quite different, and in some respects is more lenient, in its provisions for accomplishing that than the United States Forest Service is. It is very common that BLM permits will have a greater value than national forest permits.

**AUDIENCE WITH THE BOARD:** Bill Myers, Chairman, Federal Lands Task Force Working Group. Also in attendance at the meeting: Working Group members Dave Whaley, John Foard, Susie Borowicz and Bob Maynard.

**Mr. Myers.** Two months ago the Working Group presented its report, *Breaking the Gridlock: Federal Land Pilot Projects in Idaho*, to the Land Board. Five proposals were presented in the report. The Working Group felt that the proposed pilot projects would be good experiments for the management of federal lands in Idaho. At that time, as is true now, it was reiterated that there has been no attempt by the Working Group, or by the predecessor Task Force, to change the ownership of these lands from the federal government to the State of Idaho or to anyone else.

At the December 13, 2000 Land Board meeting, the Working Group suggested that a public comment period be held and the board agreed. The Working Group report was posted on the Department of Lands web site on December 22, 2000. Hard copies of the report were distributed to Idaho Department of Lands area offices around the state.

Working Group members engaged in various community outreach opportunities, which included meetings hosted by county commissioners. Those meetings were in Salmon, Orofino, Riggins and Twin Falls. The meetings were held in the evenings so that people could attend after work. Members presented the report and answered questions. Copies of the report were made available at those meetings. Working Group members made themselves available to the media and have responded to inquiries from television, newspapers and radio from around the state. Presentations have been made to groups upon request, such as the Idaho Environmental Forum.

As a result of the Group's activities, the Department of Lands received over 500 public comments. Copies of the comments were distributed to Working Group members for their review. In December a thirty-day informal comment period was suggested. In fact, the comment period lasted approximately six weeks total. Over 80% of the initial 510 comments, received through February 6, 2001, were favorable with 20% unfavorable and one neutral comment from the United States Forest Service Supervisors from around the state. Of the comments received, approximately 63% came from in-state locations, about 10% came from out-of-state locations and about 27% were unidentifiable as to origin.

A central theme came out of the comments. Those in favor of the report basically recognize that there is a problem and feel that local citizen input will help solve the problem. Those who are opposed do not think there is a problem and prefer a centralized managed control and approach to decision making. That dichotomy explains in basic terms the difference between those who are for and those who are against the proposed pilot projects.

Mr. Myers asked that the board to do the following:

1. Approve the report as submitted.
2. Transmit the report immediately to the Idaho Congressional Delegation for its consideration.
3. Direct the Department of Lands to support implementation through that process.
4. Extend the comment period.

**DISCUSSION:** Governor Kempthorne asked Mr. Myers to address Senator Noh's comments on project number five and the fact that it includes BLM land.

Mr. Myers recommended that the fifth proposal be included. The Working Group received more input from the ranching community on that project than they had received from any other industry or non-industry groups on the other four projects. Ranchers came to the meetings. Sometimes they came in number and would sit and listen to deliberations and occasionally they helped to answer questions from the Working Group members. Representative Bedke was one of the founding fathers of the original Federal Lands Task Force and was also very helpful. The ranching community in that area provided a great deal of input. While Mr. Myers understands Senator Noh's concerns about permit values, he feels the projects should proceed.

**DISCUSSION:** Governor Kempthorne asked if the original legislative intent referenced BLM. Mr. Myers responded that there were two pieces of legislation. Title 58-104 provides the powers and duties of the State Land Board. Sub-section 10 states the board has the authority to enter into a Joint Exercise of Powers Agreement with the United States Forest Service in the Department of Agriculture pursuant to 67-2328, Idaho Code. While that does speak only of the Forest Service, Mr. Myers stated there is a question in his mind as to whether that means exclusive of all other agencies and whether the board has authority under other powers provided by the Legislature to look elsewhere.

The Twin Falls proposal does have Forest Service involvement. In fact slightly more than half of the federal lands involved in that project are Forest Service lands. It has the required federal lands-Forest Service nexus. Mr. Myers stated he does not believe that title 58 precludes other agencies from being involved and also title 58 and 67-2328 both go to the issue of entering into a Joint Powers Agreement. Mr. Myers does not believe that the process has progressed to that stage. He feels if we get to that point in time, the section on Joint Exercise of Powers will come into play and there will have to be punctilious adherence to that section of the law.

**AUDIENCE WITH THE BOARD:** Bob Maynard, Member of the Federal Lands Task Force Working Group

**Mr. Maynard.** Mr. Maynard agreed with comments as presented by Mr. Myers. He stated that the 1998 Task Force report referenced the legislation that Senator Noh referred to as an introduction or as a starting point. But the charge to the Task Force from the board was to look at all federal lands. Mr. Maynard feels that the important thing to remember with regard to the Cassia County project is that it is about 50% national forestlands. If it is implemented, Mr. Maynard anticipates that it would involve a cooperative agreement with the Forest Service. The project could not go forward without involvement from the BLM as well.

**DISCUSSION:** Attorney General Lance referred to Mr. Myers' motion to keep the public comment period open indefinitely. He feels doing so would create a dissipation of the board's focus, assuming that the board has to staff up to continue the comment period. Should the board approve the report, Attorney General Lance suggested that the report be sent to the Idaho Congressional Delegation. A letter should accompany the report stating that the report is a basic blueprint or outline to reach ultimate agreement with the federal government relative to cooperative management and would our Congressional Delegation help us with this effort.

Attorney General Lance continued by stating that when Governor Kempthorne meets with Western Governors he will probably present them with a copy of the report. In doing so he will say that we are not sure we have all of the answers but here is a start in terms of trying to reach some kind of agreement with the federal government. When it comes right down to it, Attorney General Lance feels that we are not going to enter into any agreement. This is an offer to ask what do you think and we need some feedback. Attorney General Lance stated that the board would offer the proposal that has been put together and would stress that it realizes that the report needs a lot of negotiation, conversation and input from all interested parties. The report is a starting spot, not an ending spot. Attorney General Lance feels that until specifics are determined we will dissipate our effort if we keep listening to all of the objections and all of the problems that may be out there on these five proposals.



Ultimately the proposal(s) that go forth may not be any of the proposed five. He asked Mr. Myers if he would be offended if the board focuses on moving ahead with the understanding that the legislature ultimately has to be involved in any final agreement reached with anybody. The public will certainly have to have an opportunity to express their opinion in any affected or impacted area.

Mr. Myers stated the Working Group would not be offended if the public comment period ended. The Working Group was sensitive to suggestions that the comment period was not long enough. However, the over 500 comments received calmed that concern. People from across Idaho and across the United States weighed in with their thoughts. On behalf of the Working Group, Mr. Myers is content with Attorney General Lance's suggestion. The Working Group concurs with the deletion of the informal comment period from its motion to the board. The Working Group will leave it as a recommendation that the Congress of the United States continue to take public comment as they progress. The Working Group will ask that the board approve the report, transmit it immediately to the Idaho Congressional delegation and direct the Department of Lands to support implementation in Congress.

**AUDIENCE WITH THE BOARD:** John McCarthy, Idaho Conservation League (ICL)

**Mr. McCarthy.** Mr. McCarthy stated that ICL was appointed and participated as a member of the original task force for almost two years. However, by March 1998 ICL believed its interests were not being included and the organization thereafter resigned. ICL's letter of resignation mentioned a lack of representation of non-motorized recreation, Indian Tribes, federal land managers and independent biologists. ICL also stated, "The Task Force has maintained a primary focus on production for economic gain and has given inadequate attention to protection and restoration of land and water resources." ICL believes that problem continues today.

Mr. McCarthy went on to explain the problems that he sees with current recommendations.

1. The state track record. ICL believes that the state does not manage for a full range of values and outcomes or for game species.
2. Overturning existing environmental laws. ICL believes that having Congress set up new environmental laws only for Idaho with five different projects operating under five different interpretations of environmental laws is a formula for chaos.
3. The scale of the proposal and the lack of public involvement. There is no public involvement process included in the proposal in its formation.

In conclusion, ICL does not believe there is a gridlock. ICL believes there are more effective ways to make changes than to overturn environmental laws and to appoint exclusive advisory boards.

**DISCUSSION:** Controller Williams asked Mr. McCarthy if he felt something could be done. Mr. McCarthy stated he feels many things could be done. He commented that one of the goals should be to fix past mistakes. Another problem is the belief that Idaho can not operate under existing laws that are accepted across the nation. Idaho does not need a different set of laws. Idaho can operate under the Endangered Species Act and under the Clean Water Act and can still move forward. Environmental law is not just technical information. It is also the public involvement process.

Controller Williams commented that one set of laws does not always fit everywhere in the country. This effort does not anticipate wholesale changes. There may be small changes because of local conditions. But it has to be a win-win situation or it will not work. Mr. McCarthy responded that the board and the Task Force need to listen to the environmental community. The reason ICL chose not to participate was because their interests in trying to protect species, to recover species, to fix past problems, to include public involvement and to work within the laws that we all understand were not being heard. As a part of the process, laws are always applied with some reference to local conditions. Mr. McCarthy stated that if ICL is asked why it does not participate you have to listen when they say it is because their interests are not being met. ICL is not going to waste its time and efforts that do not include those interests.

Superintendent Howard asked Mr. McCarthy to elaborate about his comment of “federal land takeover.” Mr. McCarthy stated that the report suggests going from federal lands being operated under national laws to a small select group telling the Forest Service, who will continue to be paid by taxpayers all over the nation, what to do. The Forest Service, as a broad set of public servants with a broad mission, would now be focused by a small set of people with an exclusive set of interests directing the Forest Service on how to operate.

Superintendent Howard asked Mr. McCarthy about another phrase that he used, “environmental law overturned.” She feels that phrase has a sense of taking away something that is very precious in terms of protecting the environment. She asked Mr. McCarthy whether his fears are specific or general. Mr. McCarthy responded that he has general fears that those laws would be changed specifically for Idaho. Although he does not agree with all of the national laws, he is willing to operate under them.

**AUDIENCE WITH THE BOARD:** Jane Gorsuch, Vice President, Idaho Affairs, Intermountain Forest Association.

**Ms. Gorsuch.** Ms. Gorsuch asked the board to support the Task Force recommendations. She also urged the board to transmit the report to the Idaho Congressional Delegation for further action. By continuing to support work to implement the recommendations, the board will encourage the over 400 individuals and groups who wrote in support of the report recommendations during the recent public comment period. The comments support the recommendations that are based upon ecosystem management on a landscape basis. The projects are based upon sound science and best management practices designed to improve the health of the resources and the communities.

Ms. Gorsuch stated there is still a long road ahead. The recommendations must go to Congress for authorization. Legislation must be written and passed. Rules must be put in place and the “on-the-ground” activities must be started. These steps will be open to public debate and review. All laws will be honored and all voices will be invited and will be free to participate in the dialogue.

**AUDIENCE WITH THE BOARD:** Craig Gehrke, Regional Director, Idaho Office of The Wilderness Society, Idaho Regional Office

**Mr. Gehrke.** The Wilderness Society believes that the foundation of the Task Force report is wrong and that it will, in fact, take Idaho’s national forests back several decades to a time when the public lands were perceived largely as existing for the benefit of those who lived next to them. The Wilderness Society does not believe that “gridlock” exists on Idaho’s national forests.

The theme of the Task Force report is national forests serving “local” interests. Mr. Gehrke feels there is also an unstated goal of locking out the larger public from participation in management of these lands. The Task Force does not explain where the imaginary line lies between “local” and what would be perceived as “outside” interests. The Wilderness Society believes that the Task Force wants to take away the right and privilege of those living in the population centers of Idaho and the rest of the United States to express a voice in the management decisions for nearly half of Idaho’s national forests.

In summary, Mr. Gehrke stated that The Wilderness Society recommends that the Task Force recommendations never go forward to Congress.

**DISCUSSION:** Secretary of State Cenarrusa asked if Mr. Gehrke was concerned about what the State Legislature might do or about what Congress might do to upset his thoughts about wilderness areas. Mr. Gehrke stated that if this report goes forward, The Wilderness Society would be meeting with members of Congress to advance their position that these projects should not be approved and that this legislation should not be enacted to carry out these projects as drafted in the report.

Superintendent Howard asked Mr. Gehrke about his comment that deals with local interests as opposed to the larger public. With the intermix of federal, state and private lands over time, Idaho has had an economy that has grown up with the interaction of those various land ownerships. Dr. Howard asked Mr. Gehrke if he feels that this is a thing of the past and that we are now looking to a new era where that no longer will be the case. Mr. Gehrke responded that he does not believe geographic proximity should constitute any special status in voice or in the management of public lands.

Dr. Howard asked Mr. Gehrke for his opinion on extending the public comment period. Mr. Gehrke stated that he feels the public comment period should continue and that the report should be more widely distributed.

Controller Williams commented that Mr. Gehrke's comments are quite a bit like comments received by several groups, where they say there is no gridlock and that gridlock is perceived by most people because of the changing values of society. Controller Williams observed that it is interesting to him that Idaho has not seen those changing values show up in the elections.

Controller Williams commented that he suspects the report will go to Congress. The challenge would be for the environmental community to help. Mr. Gehrke responded that unfortunately a lot of the options have been foreclosed on public lands. He feels that smaller projects, based on science and clearly defined restoration goals, are the projects that will go forward. Fundamentally if part of this is that we are going to change federal laws just for Idaho, barring some emergency, The Wilderness Society will not support it.

Secretary of State Cenarrusa stated he does not believe that the report will effect changing laws just for the State of Idaho. Many states are looking at this concept and are watching what Idaho is doing. Idaho has taken the lead in this effort. Secretary of State Cenarrusa believes that local and state input into the management of federal lands will help Idaho's agricultural communities.

**AUDIENCE WITH THE BOARD:** Sara Braasch, Executive Vice President, Idaho Cattlemen's Association

**Ms. Braasch.** Ms. Braasch stated that she is most familiar with the Twin Falls-Cassia project. People realized from the beginning what a challenge they were facing but they agreed on a couple of things. One is that even in the best of times there is room for improvement and especially when you have been through the worst of times. They knew that the status quo was not acceptable. What they did was sit down and try to pull together an idea of how we can manage our federal lands in the best interest of all of us.

They knew that it was important to local communities, to recreationists and to the ranching community. They brought to the board a product that they feel comfortable and confident with. That product will allow them to make clear decisions, implement those decisions quickly and perhaps even a little bit cheaper. As a taxpayer, Ms. Braasch applauds those efforts. She feels we owe it to ourselves to try a new approach.

Ms. Braasch believes that the Twin Falls-Cassia project is unique and is worth continuing. This year eastern Idaho experienced problems with the accumulated build up of fine fuel loads. Over 300,000 acres of sage grouse habitat was lost.

Ms. Braasch feels that it is important for Idaho to send Congress a package like this. She feels it is important that legislation be developed for all five projects, taking into consideration all of the pros and cons that have been raised. In moving forward, she believes Idaho can continue striving for the best possible project. Ms. Braasch offered the continued commitment of the Cattlemen's Association at the state and national level to make that possible.

**AUDIENCE WITH THE BOARD:** *Representative Scott Bedke*

**Representative Bedke.** Representative Bedke participated in the original Federal Lands Task Force. He commented that the issues have remained the same but that the forum for the discussions should be moved back to where people have an intimate knowledge of all of the facts. In that way people can put their knowledge to work to develop a solution that includes all.

Ranchers realize that they are using a publicly held asset. With that comes responsibilities and ranchers are willing to meet those responsibilities. There is a knowledge base within the boundaries of the Twin Falls/Cassia project wherein all of us can sit down and develop something workable. That effort will take commitment from many people to make it happen.

Representative Bedke closed with a comment that Jack Ward Thomas made to him. "This is just an experiment. Put it in the laboratory. Twist it, bend it, tweak it, learn from it. What we are doing is not all right. It's not all wrong. But there obviously is a better way."

**DISCUSSION:** Secretary of State Cenarrusa thanked Representative Bedke for taking this job on at its inception and for bringing the idea to the Land Board for consideration. Controller Williams added that he believes Representative Bedke represents the new era in agriculture.

Superintendent Howard emphasized how important it is that the dialogue continues and that it be civil. A lot of dialogue has shown a lack of respect for people who work with federal agencies, even though they are members of our communities. The board has heard a desire for a core of environmental laws and through all of that, it appears both sides share a desire to hold on to what we have for fear of what might become. Dr. Howard feels we must move forward to face those challenges. It is important that we acknowledge the need for public input. Wherever fear exists, it needs to be expressed. Solutions are going to be dependent upon successful resolution of those fears.

Governor Kempthorne stated that this report is not the conclusion. This really is the first big step toward submitting the report to our Congressional Delegation to find out if they are receptive to the concept of any of the five projects identified and articulated in the report. Governor Kempthorne believes it is important to go forward. This effort has been underway for a number of years. A number of people have provided testimony.

Governor Kempthorne stated that the board would not preclude any citizen from submitting comments to the Department of Lands. IDL can collect any additional comments and make those comments available to the Idaho Congressional Delegation for their further consideration. The question is whether the board should stop the report from going forward at this point. Governor Kempthorne stated it is important that the board not appear inconsistent. This is not the conclusion. This is just a big first step and there will be great public debate in the future.

Controller Williams stated that he agrees with the Governor. After reviewing almost every comment summary, he does not believe anything more can be said. Both sides made their points. This is a very important issue. We are talking about something that is not going to be easy to do. It has been almost five years now. Perhaps in another five years we might be where we want to be. Controller Williams believes enough public input has been received to justify a vote to proceed.

Secretary of State Cenarrusa concurred and stated that we must go ahead. We know that we have had problems. Why not try to resolve them? We can not do that unless we go forward. He stated he is disappointed that the Conservation League pulled out. He believes they should join and provide their input to the committee. In that way you can work on things together to build a good program. This is not the final document. It is just a beginning.

Attorney General Lance stated he concurs with Superintendent Howard as to the civility of the debate. It shows the reasonableness of the Land Board's approach. If we are going to resolve some of these issues it seems we all need to maintain our civility.

**BOARD ACTION:** Attorney General Lance moved for the adoption of the recommendation of the Task Force as articulated by Mr. Myers and as amended. With the consent of a quorum of the Task Force Working Group present, Mr. Myers added that the board direct the Idaho Department of Lands to support implementation of the report in Congress. Relative to the deletion of number three (3) of the Working Group's motion, i.e., the extension of the informal comment period, it is recommended that number three (3) be deleted and replaced by a recommendation that the Congress of the United States continue to take public comment as they progress in their study of the report. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 5-0.

**15. Pickett Ranch Grazing Lease Auction Appeals** – Presented by Jay Biladeau, Assistant Director, Lands, Range, Minerals

**BOARD ACTION:** This item was withdrawn from the agenda.

**16. Cedars Floating Restaurant Rental Appeal** – Presented by Jay Biladeau, Assistant Director, Lands, Range, Minerals

**AUDIENCE WITH THE BOARD:** Ray Gillett, Owner, Cedars Floating Restaurant, CDA Lake

**Mr. Gillett.** Mr. Gillett stated he is appearing before the board because he has been unable to reach a mutually acceptable submerged land lease with the Department of Lands. Mr. Gillett has owned the Cedars Floating Restaurant for 33 years. The facility was built in 1991 with Department of Lands approval. Over \$2 million has been paid into the State General Fund through sales tax revenue.

Mr. Gillett stated both sides agree that some kind of relationship does exist between the submerged land and the land that services the site. However, he disagrees with the department that the uplands containing parking, drain fields, storage, utilities, landscaping and access roads have little influence in assigning a dollar value to the submerged site. Because his site is located on the inlet to the Spokane River, and is located on an old landfill, Mr. Gillett stated that the site is less than ideal.

To justify its position, the department hired an MAI appraiser. However, Mr. Gillett feels that the department disregarded the MAI results. Mr. Gillett feels that the 1½% of gross sales that the department wants to charge is too high. The appraiser suggested only ½% of gross sales. Mr. Gillett feels the difference amounts to a huge discrepancy and affects the financial viability of his restaurant.

In conclusion, Mr. Gillett stated facts show that the Land Board can grant adjustments to businesses where relief is clearly shown and where the assessment burden becomes so onerous that the very existence of the business may be in question.

**DISCUSSION:** Governor Kempthorne suggested the use of a graduated scale to give Mr. Gillett time to make adjustments in his overhead operations. Mr. Gillett stated his contention is that he is not being treated the same as everyone else because there is no one else in his position. Mr. Gillett feels a fixed amount would be best but that anything would help. Mr. Gillett stated he would go along with whatever the board decides.

Attorney General Lance commented that the board has an obligation. Some other leases return 2% of what they turn. The board has to look to the future and to the possibility that someone else may

want to establish a floating restaurant on the lake. We have to establish some uniformity of how we approach this issue.

Controller Williams commented that he really believes the board should treat everyone the same. However, he does believe Mr. Gillett has made some points. Controller Williams stated that he would be willing to phase the fee in over three to five years to give Mr. Gillett a little breathing room.

Attorney General Lance stated he does not have a problem with going from 1% to 1½% over a period of three years. He understands that the restaurant business is very tough but so is lumber, mining, farming and ranching. When the board is faced with the proposition of having to meet its fiduciary responsibility, it does not get to pick and choose. Attorney General Lance stated he would support a phased in approach.

**DEPARTMENT RECOMMENDATION:** Affirm the Cedars Floating Restaurant lease rate of \$1,000 or 1.5 % of Gross Receipts, whichever is greater.

**BOARD ACTION:** Controller Williams moved that a one-percent floor phased in over three years to 1½ percent be approved. Attorney General Lance seconded the motion. The motion carried on a vote of 5-0.

**17. Cottage Site Land Valuation Appeals – Bert and Marcia Belles–** *Presented by Jay Biladeau, Assistant Director, Lands, Range, Minerals*

**AUDIENCE WITH THE BOARD:** Mr. Bert Belles, Cottage Site Lessee

**Mr. Belles.** Mr. Belles stated his audience with the board is to ask for fairness in this whole process. All of the Priest Lake lessees received a 25% reduction. Out of those who had appraisals done, the average difference was 30%. Mr. Belles believes the 25% figure was a fair number. A number of people did not appeal. Mr. Belles stated that his difference was 48% and that is why he is appearing before the board today. Mr. Belles asked that his rate be reduced to market value, which is what it was appraised at.

**DEPARTMENT RECOMMENDATION:** That the Board direct the department to proceed expeditiously to complete an MAI appraisal of Lot 80A, covered by Lease R-1243 to Bert and Marcia Belles, in accordance with board-adopted appraisal instructions.

**BOARD ACTION:** Attorney General Lance moved that an MAI appraisal be initiated by the department at the department's expense. After analyzing appraisals, the board will establish the rental. Controller Williams seconded the motion. The motion carried on a vote of 5-0.

**18. Cottage Site Lease –** *Presented by Jay Biladeau, Assistant Director, Lands, Range, Minerals*

**DEPARTMENT RECOMMENDATION:** That the Land Board approve the recommendations of the Sub-Committee.

**AUDIENCE WITH THE BOARD:** Chuck Lempesis, Attorney, Priest Lake Cottage Site Association

**Mr. Lempesis.** Mr. Lempesis stated he is authorized to sign off and to tell the board that based upon what is contained in the lease, with two clarifications (listed below), the association will dismiss any pending appeal and will contemplate taking no further legal action.

1. Mr. Lempesis reserves the right to appear before the board to appeal the index.

2. Mr. Lempesis requested that the board concede the 10% premium tax. If the board does not concede the 10% premium tax, Mr. Lempesis asked that the board allow him to pursue that issue at the court level.

*DISCUSSION:* Attorney General Lance commented that the tax is not a premium tax but is a transfer fee. A transfer fee reasonably reflects increased administrative expenses. Controller Williams stated that the 10% premium rent, or premium transfer fee, has a couple of purposes. One is to take care of the situation where the sites may be undervalued. He recommends that the board keep the 10% premium rent because it may take several years before the board knows whether it is truly at market value. Another reason is that the rent is determined with a factor of 2½% of market value. As the board and the department looked at all of the studies about recreational lease operations around the country, it was determined that we are at the low end.

Mr. Lempesis stated he would be satisfied if the board simply deleted the language that it is not appealable and said, instead, that it is appealable directly to this board. Governor Kempthorne asked Mr. Lempesis for some clarification. Mr. Lempesis stated that if the index exceeds five percent then the lessees will have the right to appeal directly to this board.

*BOARD ACTION:* A motion was made by State Controller Williams to adopt the eleven-point recommendation submitted by the Sub-Committee. At the time of the first readjustment to land value, a five-year analysis will be completed to determine an index. If the index is more than five (5) percent, it can be appealed directly to the board. If the index does not exceed (5) percent, it can not be appealed. The ten (10) percent premium transfer fee will remain in place. The motion was seconded by Attorney General Lance. The motion carried on a vote of 5-0.

- **INFORMATION AGENDA**

**Acting Director Wiggins briefed the Land Board on the Information Agenda items. No Land Board action is required on the Information Agenda.**

**19. Timber Sale Activity Report**

**20. Gypsy Moth**

*DISCUSSION:* Attorney General Lance stated that in the last 130 years the gypsy moths have gone from Maine, or that part of the country, to Ohio. He asked Acting Director Wiggins if there is any national effort to monitor and to eradicate the gypsy moth. Acting Director Wiggins responded there is a nationwide effort and Idaho is a part of that effort. Our process of monitoring to find out if they are here, and to treat expeditiously so that we can stop them before they get settled in, is patterned after the same sorts of examinations nationwide.

**21. Results of Sage Junction RFP**

**22. Transition Land Update**

A motion was made by Attorney General Lance to resolve into Executive Session at 1:15 p.m. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 5-0.

- **EXECUTIVE SESSION**

- A. To Consider Acquiring an Interest in Real Property Which is Not Owned by a Public Agency, Idaho Code § 67-2345(1)(c) – Presented by Perry A. Whittaker, Chief, Bureau of Real Estate and Kent Nelson, Deputy Attorney General**
- B. To Consider and Advise Its Legal Representatives in Pending Litigation or Where There is a General Public Awareness of Probable Litigation, Idaho Code §67-2345 (1)(f) – Presented by Clive Strong, Deputy Attorney General, Chief, Natural Resources Division**
- C. To Consider and Advise Its Legal Representatives in Pending Litigation or Where There is a General Public Awareness of Probable Litigation, Idaho Code §67-2345 (1)(f) – Presented by Clive Strong, Deputy Attorney General, Chief, Natural Resources Division**
- D. To Consider and Advise Its Legal Representatives in Pending Litigation or Where There is a General Public Awareness of Probable Litigation, Idaho Code §67-2345 (1)(f) – Presented by Steve Schuster, Deputy Attorney General, Department of Lands**
- E. To Consider Personnel Matters, Idaho Code §67-2345 (1)(b) – Presented by Winston Wiggins, Acting Director**

Upon unanimous consent, the board resolved back into regular session at 2:10 p.m. There being no further business before the board, the meeting adjourned at 2:10 p.m.

## IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/

President, State Board of Land Commissioners and  
Governor of the State of Idaho

/s/

Pete T. Cenarrusa  
Secretary of State

/s/

Winston A Wiggins  
Acting Director

**The above-listed final minutes were approved by the State Board of Land Commissioners at the March 13, 2001 regular Land Board meeting.**